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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/619,300  | 07/14/2003  | Gene D. Burdette     | 20228               | 6294             |
| 28133   | 7590        | 03/09/2004           | EXAMINER            |                  |
| RICHARD L. MARSH<br>4116 E. LATOKA<br>SPRINGFIELD, MO 65809 |             |                      |                     | HAYES, BRET C    |
|   |             | ART UNIT             |                     | PAPER NUMBER     |
|   |             | 3644                 |                     |                  |

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|------------------------------|------------------------|---------------------|
|                              | 10/619,300             | BURDETTE ET AL.     |
| <b>Examiner</b>              | <b>Art Unit</b>        |                     |
|                              | Bret C Hayes           | 3644                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_\_.  
2a)  This action is **FINAL**.                    2b)  This action is non-final.  
3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-20 is/are rejected.  
7)  Claim(s) 1,8-10,13 and 17 is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20030714.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1, 8 – 10, 13 and 17 are objected to because of the following informalities: (claims 1 and 13, line 6 of each) remove “said” before “projectile”; (claim 8, line 1) remove “at” before “launching”; (claims 9 and 10, line 1 of each) insert --at-- before “least”; and (claim 17, line 2) remove “a” before “trip”. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1 – 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites the limitations “the ends” in line 4 and “said ends” in line 5. There is insufficient antecedent basis for these limitations in the claim. Examiner notes that the second recitation will have antecedent basis when the first one establishes it. Examiner suggests removing “the” before “ends”.

5. Claim 3 recites the limitation “the ends” in line 3. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 8 recites the limitations “said latch plate” in line 2 and “said closure” in lines 2 and 3. There is insufficient antecedent basis for these limitations in the claim.

7. Claims 9 and 10 are rejected because it has been held that a functional statement does not define any structure and accordingly cannot serve to distinguish. In this case, "the projectile is inserted" is considered to be a functional statement.
8. Claim 12 recites the limitation "said ends" in line 2. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 13 recites the limitations "the ends" in line 4 and "said movable members" in line 7. There is insufficient antecedent basis for these limitations in the claim.
10. Claim 16 recites the limitation "the ends" in line 5. There is insufficient antecedent basis for this limitation in the claim.
11. Claim 17 recites the limitation "said all anti-personnel devices" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.
12. Claim 18 recites the limitation "said anti-personnel devices" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.
13. Any unspecified claim is rejected as being dependent upon a rejected base claim.

***Claim Rejections - 35 USC § 102***

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1, 2 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,487,991 B2 to So. Examiner notes that this is a rejection under 102(b) because of the Prior Publication Data (65) date of March 21, 2002.

16. Re – claim 1, So discloses the invention as claimed. So discloses a device comprising at least one launching mechanism (see Title, for example) comprising at least two movable members **14a, 14b** biased in opposing directions, the members **14a, 14b** having a material **16** affixed to ends of the members **14a, 14b**, the material **16** comprising a loop, depending and capturing, as claimed.

17. Re – claim 2, So discloses the launching mechanism being resettable.

18. Re – claim 8, wherein the launching mechanism is affixed to a mounting base **11** of an enclosure **10**.

***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 3, 4, 6, 7 and 11 – 16 and 18 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over So, as applied above.

21. Re – claims 3 and 4, wherein a latching mechanism **22** is associated with the members **14a, 14b** for holding the members **14a, 14b** in the closed, armed position. While So does not disclose a latching plate and latch hook, per se, So does disclose the latching mechanism **22** rotating to allow members **14a, 14b** to be released. And examiner takes Official Notice of the fact that the mechanism **22** could include a plate and hook as are well known in the latching art. Examiner will supply examples upon demand should such be necessary.

22. Re – claims 6 and 7, So discloses a solenoid **70** for actuating the device. However, So does not disclose an electrical (Nickel/Titanium alloy) wire actuating the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the claimed electrical wire for the solenoid, since the equivalence of a Nickel/Titanium alloy wire and a solenoid for their use in the actuation art and the selection of any known equivalents to a solenoid would be within the level of ordinary skill in the art.

23. Re – claim 11, So discloses the claimed invention except for the projectile being paintballs, hollow thermoplastic balls, metal/elastomeric BB's, soap/rubber pellets, Buckshot or other simulated munitions. The use of these as projectiles is well known in the war gaming art and would have been obvious to one having ordinary skill in the art at the time the invention was made.

24. Re – claim 12, So discloses the claimed invention except for making the material removable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the material removable, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

25. Re – claim 13, So discloses the claimed invention as applied above except for one member being movable and another being fixed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have one member being movable and another being fixed, since the equivalence of both members being movable and only one member being movable for their use in the catapulting art and the selection of any known equivalents to both members being movable would be within the level of ordinary skill in the art.

26. Re – claim 14, So discloses the launching mechanism being resettable.
27. Re – claim 15, see claim 11 above.
28. Re – claim 16, So discloses the claimed invention except for there being an array of launching mechanisms. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an array, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.
29. Re – claims 18 and 19, So discloses the claimed invention except for an array being actuated either simultaneously or sequentially. It would have been obvious to one having ordinary skill in the art at the time the invention was made to so actuate an array, since actuation of arrays must be only any of simultaneous, sequential or random.
30. Re – claim 20, see claim 11 above.
31. Claims 8 and 9 are alternatively rejected under 35 U.S.C. § 103 as being unpatentable over So in view of US Patent No. 2,974,954 to Martin.
32. Re – claim 8, So discloses the invention substantially as claimed as applied above. However, So does not disclose a latch plate being affixed to a cover of an enclosure. Martin teaches latch means **40** being affixed to a cover **15** of an enclosure in the same field of endeavor for the purpose of latching. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify So to include the latch means as taught by Martin in order to latch a cover of an enclosure.
33. Re – claim 9, So discloses a hole **10a** in the mounting base of the enclosure.

34. Claims 5 and 17 rejected under 35 U.S.C. § 103 as being unpatentable over So in view of US Patent No. 3,831,521 to Engeli.

35. So discloses the invention substantially as claimed, as applied above. However, So does not disclose use of a trip wire to actuate the device.

Engeli teaches a trip wire *b* in the same field of endeavor for the purpose of actuating a mine.

36. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a trip wire as taught by Engeli in order to actuate the device.

***Conclusion***

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan, can be reached at (703) 306 – 4159. The fax number is (703) 872 – 9306.

bh

3/7/04

*Charles T. Jordan*  
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